

THE HONORABLE JAMES L. ROBERT

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
SEATTLE DIVISION

SECURITIES AND EXCHANGE COMMISSION,

Plaintiff,

vs.

PATH AMERICA, LLC; PATH AMERICA SNO CO  
LLC; PATH AMERICA FARMER'S MARKET, LP;  
PATH AMERICA KINGCO LLC; PATH  
AMERICA TOWER, LP; PATH TOWER  
SEATTLE, LP; POTALA TOWER SEATTLE, LLC;  
and LOBSANG DARGEY,

Defendants, and

POTALA SHORELINE, LLC; POTALA VILLAGE  
KIRKLAND, LLC; DARGEY DEVELOPMENT,  
LLC; DARGEY ENTERPRISES, LLC; and PATH  
OTHELLO, LLC,

Relief Defendants.

Civil Action No. C-15-1350-JLR

SECURITIES AND EXCHANGE  
COMMISSION'S RESPONSE TO  
PATH AMERICA TOWER  
INVESTORS' MOTIONS TO  
INTERVE AND TO MODIFY THE  
PRELIMINARY INJUNCTION

NOTED ON MOTION  
CALENDAR:

October 16, 2015

1 The Securities and Exchange Commission's ("SEC" or "Commission") hereby responds to  
 2 the motion by certain specified Path America Tower investors who have sought leave to intervene  
 3 for the limited purpose of obtaining an order directing Defendants to release their funds from  
 4 escrow. *See* Dkt Nos. 56 (Motion to Intervene) and 57 (Motion to Modify Temporary Restraining  
 5 Order or Preliminary Injunction).

6 The Commission responds in order to state that it consents, pursuant to Section 21(g) of the  
 7 Securities Exchange Act of 1934 ("Exchange Act"), 15 U.S.C. § 78u(g), to the very limited  
 8 intervention by the eleven identified investors for the purpose of moving the Court to modify the  
 9 asset freeze under the Preliminary Injunction to return their funds. The eleven identified investors  
 10 recently transferred funds amounting to \$500,000 per investor to the escrow account held at  
 11 Central Escrow, and their full deposit remains intact and, pursuant to the asset freeze, should not  
 12 be transferred to the Defendants. On September 4, 2015, this Court granted the stipulated request  
 13 to release the funds of five, other similarly-situated investors. *See* Dkt. No. 21. Defendants have  
 14 filed a notice of non-opposition to the investors' motion. Accordingly, the relief the eleven  
 15 investors seek should be granted.

16  
 17  
 18 Dated: October 9, 2015

Respectfully submitted,

19  
 20 /s/ Susan F. LaMarca  
 21 Susan F. LaMarca  
 22 Sheila E. O'Callaghan  
 23 SECURITIES AND EXCHANGE COMMISSION  
 24 44 Montgomery Street, Suite 2800  
 25 San Francisco, CA 94104  
 26 (415) 705-2500  
 27  
 28

CERTIFICATE OF SERVICE

I, Susan F. LaMarca, hereby certify that on October 13, 2015 I caused the electronic filing of the foregoing:

SECURITIES AND EXCHANGE COMMISSION'S RESPONSE TO PATH AMERICA TOWER INVESTORS' MOTIONS TO INTERVE AND TO MODIFY THE PRELIMINARY INJUNCTION

with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the following:

Daniel J. Dunne, [ddunne@orrick.com](mailto:ddunne@orrick.com)

George E. Greer, [ggreer@orrick.com](mailto:ggreer@orrick.com)

David S. Keenan, [dkeen@orrick.com](mailto:dkeen@orrick.com)

Charles J. Ha, [charlesha@orrick.com](mailto:charlesha@orrick.com)

ORRICK, HERRINGTON & SUTCLIFFE LLP  
701 Fifth Avenue, Suite 5600  
Seattle, WA 98104-7097  
Attorneys for Defendants and Relief Defendants

Nelson K. H. Lee [nelson.lee@leeandlee-ps.com](mailto:nelson.lee@leeandlee-ps.com)

Steven W. Fogg [sfogg@corrchronin.com](mailto:sfogg@corrchronin.com)

Kelly H. Sheridan [ksheridan@corrchronin.com](mailto:ksheridan@corrchronin.com)

CORR CRONIN MICHELSON BAUMGARDNER FOGG & MOORE LLP  
1001 Fourth Avenue, Suite 3900  
Seattle, WA 98154-1051  
Attorneys for Intervenors

and I hereby certify that I have mailed by United States Postal Service the document to the following non CM/ECF participants:

[None.]

Dated: October 13, 2015

/s/ Susan F. LaMarca  
Susan F. LaMarca